

Remarks

The claims remaining in this application are 1-5, 7-9, and 12-14. The examiner has rejected these claims as being obvious under 35 U.S.C. § 103 over U.S. Patent No. 5,787,000 to Lilly in view of Layden (“A Rapidly Changing Landscape”). The examiner had also previously rejected claim 6 as being obvious under 35 U.S.C. § 103 over Lilly in view of Layden and U.S. Published Patent Application No. 20020188499 to Jenkins et al.

In the amended claims herein, the limitations of cancelled claim 6 — the use of in-transit inventory in the creation of the material delivery schedule — has been incorporated into claim 1. Thus, the limitations of claim 6 are now present in claim 1, and the examiner’s use of Jenkins in support of the “in-transit inventory” limitation must likewise apply to claim 1.

As discussed in the previous office action response, Jenkins is not prior art to the pending patent application, unless the relevant passages of Jenkins are supported by the provisional application (U.S. Serial No. 60/243,000) from which Jenkins claims priority. The examiner identifies paragraphs 7 and 8 of Jenkins as disclosing the “in-transit inventory” portion of claim 6 (now claim 1).

In the response to the previous office action, the examiner instructed the Applicants to review a copy of Jenkins through the Internet. Applicants have since conducted an analysis of the text of the Provisional Application No. 60/243,000 through the public PAIR web site. Paragraphs 7 and 8 are not present in the text of the Provisional Application No. 60/243,000. In addition, Applicants have conducted a search of Provisional Application No. 60/243,000 and have been unable to locate a disclosure of in-transit inventory as being one basis for the creation of the material delivery schedule. Applicants respectfully request that the examiner specifically identify the location of this disclosure in the text of the Provisional

Application No. 60/243,000. In the absence of such a disclosure, Provisional Application No. 60/243,000 and Jenkins cannot be used as a basis for rejecting claim 1, as the applicable date for the Jenkins reference would be October 29, 2001, which is after the filing date of this application.

Conclusion

Applicants respectfully submit that pending claims 1-5, 7-9, and 12-14 of the present invention, as amended, are allowable. Applicants respectfully request that the amendments provided herein be entered. Applicants respectfully request that the rejection of these claims be withdrawn and that these claims, as amended, be passed to issuance.

Respectfully submitted,



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